

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

AUG 24 1998

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

Federal Communications Commission
Office of Secretary

NEW YORK OFFICE
919 THIRD AVENUE
NEW YORK, NY 10022-9998
(212) 758-9500 FAX (212) 758-9526

August 24, 1998

BY HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

ORIGINALRe: Ex Parte Presentation in CC Docket No. 98-84

Dear Ms. Salas:

Transmitted herewith on behalf of McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), and pursuant to Section 1.1206(a) of the Commission's Rules, 47 C.F.R. § 1.1206(a) (1997), this is to provide an original and two copies of McLeodUSA's Supplemental Filing in the above-referenced docket. This Supplemental Filing is intended to bring to the Commission's attention a recent Nebraska Supreme Court opinion addressing the Nebraska Public Service Commission's decision to permit US WEST Communications, Inc. to withdraw its Centrex service offerings.

Should any further information be required with respect to this *ex parte* notice, please do not hesitate to contact us. As directed by the Public Notice in this matter, McLeodUSA has served copies of this written *ex parte* pleading on all parties to the proceeding. We would appreciate it if you would date-stamp the enclosed extra copy of this filing and return it with the messenger to acknowledge receipt by the Commission.

Sincerely,



Andrew D. Lipman
Richard M. Rindler

cc: Janice Myles
ITS

No. of Copies rec'd
List ANCOE

042**ORIGINAL**

RECEIVED

AUG 24 1998

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)

McLEODUSA TELECOMMUNICATIONS)
SERVICES, INC.)

CC Docket No. 98-84

Petition for Preemption of Nebraska Public)
Service Commission Decision Permitting)
Withdrawal of Centrex Plus Service by)
U S WEST Communications, Inc.)
_____)

**SUPPLEMENTAL FILING OF
McLEODUSA TELECOMMUNICATIONS SERVICES, INC.**

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), by undersigned counsel and pursuant to Section 1.1206 of the Commission's Rules, submits this Supplemental Filing in the above-captioned proceeding. The purpose of this filing is to call to the Commission's attention a recent intervening event that further underscores the need for Commission action on the pending Petition.

McLeodUSA filed its Petition in this proceeding on June 2, 1998, asking that the Commission act expeditiously to preempt a barrier to entry erected when the Nebraska Public Service Commission ("PSC") allowed U S WEST Communications, Inc. ("U S WEST") to withdraw its Centrex service offerings. As McLeodUSA explained in the Petition, the Nebraska PSC has failed to consider any of the anticompetitive implications of this withdrawal pursuant to section 251 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("1996 Act"). Because it failed to engage in this kind of substantive analysis, the Nebraska PSC permitted

U S WEST's revised rate list to take effect, and denied complaints filed by McLeodUSA and other would-be competitors in the Nebraska market.¹ As a result of the Centrex withdrawal sanctioned by the Nebraska PSC, McLeodUSA has been denied the method of entry (Centrex resale) that it has used to enter every other U S WEST market bordering Nebraska. By allowing U S WEST to withdraw its Centrex service offerings before competitors could resell them, the Nebraska PSC has thus erected a barrier that is just as significant and effective as any explicit prohibition on competitive entry.

A number of interested parties filed comments regarding McLeodUSA's Petition on July 10, 1998, with reply comments filed on July 27, 1998. While most parties supported preemption of the *Nebraska Order*,² U S WEST and the Nebraska PSC claimed, among other things, that the Commission should at the very least delay consideration of the Petition pending resolution of the appeal of the *Nebraska Order* by the Nebraska Supreme Court.³

On August 14, 1998, the Nebraska Supreme Court issued a decision denying the appeal of McLeodUSA, AT&T, and MCI.⁴ In fact, the court found that McLeodUSA and the other

¹ See *In the Matter of McLeod Telemanagement, Inc.; MCI Telecommunications Corp.; and AT&T Communications of the Midwest, Inc. vs. US West Communications, Inc.*, Docket Nos. FC-1252, FC-1253, FC-1254, Opinions and Findings (Neb. PSC Nov. 25, 1996) ("*Nebraska Order*").

² See Comments filed by the Association for Local Telecommunications Services; MCI Telecommunications Corporation; Frontier Telemanagement, Inc. and Advanced Telecommunications, Inc.; WorldCom, Inc.; the Telecommunications Resellers Association; and the Competitive Telecommunications Association.

³ U S WEST, at 3-4; Nebraska PSC, at 1-2.

⁴ *McLeod Telemanagement, Inc., et al. v. U S WEST Communications, Inc.*, Case No. S-97-112 (Neb. Supreme Ct. Aug. 14, 1998) (provided as Attachment A to this filing).

competitive carriers lacked standing to file the complaints at the Nebraska PSC; even if the complaints had proven successful, the court reasoned, "appellants would not receive any recognizable benefit because they are not authorized to provide local telephone services in Nebraska."⁵ As a result, the court not only found that the appeal should fail, but it also ruled that McLeodUSA and the other competitive carriers were unable to invoke the Nebraska PSC's jurisdiction in the first instance.⁶ Thus, the court reversed the decision, remanded the case to the Nebraska PSC, and directed it to dismiss the complaints for lack of jurisdiction.⁷

In light of the Nebraska Supreme Court's decision, there is no longer any need to hold the present proceeding in abeyance or dismiss the Petition as U S WEST and the Nebraska PSC had urged. In fact, the court's decision makes all the more clear the need for Commission action to rule on the competitive implications of the Centrex service withdrawal under federal law. Like the Nebraska PSC, the Nebraska Supreme Court did not examine the implications of the withdrawal pursuant to sections 251(c)(4) or 251(b)(1) of the 1996 Act.⁸ Now only this Commission can ensure that these provisions of federal law will be enforced. Furthermore, the Nebraska Supreme Court's exclusive focus on whether there is any "recognizable benefit" that competitors might gain from being able to resell Centrex misses the mark. This Commission must address the corresponding "recognizable harm" that McLeodUSA and other competitive carriers have already suffered as a result of their inability to enter the Nebraska local exchange market, which the Nebraska court

⁵ *Id.* at 4.

⁶ *Id.* at 3-4.

⁷ *Id.* at 4.

⁸ 47 U.S.C. §§ 251(c)(4) and (b)(1) (1996).

overlooked. Indeed, the very reason that McLeodUSA is not certificated in Nebraska today – and would therefore derive no immediate "benefit" from the decision in the Nebraska Supreme Court's perspective – is because the Nebraska PSC allowed McLeodUSA's preferred service platform to be withdrawn in violation of federal law.

Although the *Nebraska Order* has been effectively vacated as a result of the Nebraska Supreme Court's decision, this in no way changes the fact that McLeodUSA and other carriers are still precluded from providing competitive local exchange service by reselling Centrex in Nebraska. Section 253(a) forbids any state from taking action that "may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."⁹ In allowing U S WEST's withdrawal of Centrex to take effect on February 16, 1996 without any examination of whether the 1996 Act barred this withdrawal, the Nebraska PSC erected a significant barrier to entry that continues to keep McLeodUSA and other resellers out of the Nebraska local exchange market today.¹⁰ The analysis provided by McLeodUSA's Petition therefore applies with equal force to the now-vacated *Nebraska Order*, as well as to the underlying failure of

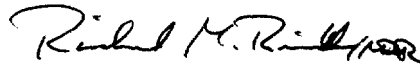
⁹ 47 U.S.C. § 253(a) (1996).

¹⁰ Although section 86-803(1) of the Nebraska Revised Statutes provides that "[t]elecommunications companies shall not be subject to any rate regulation by the commission," it does not instruct the Nebraska PSC to decline from regulating *services*. Neb. Rev. Stat. § 86-803(1) (1994). Indeed, in the *Nebraska Order*, the Nebraska PSC never expressed any hesitation about its ability to regulate the withdrawal of Centrex services under state law, but only found that the withdrawal was not prohibited by state law. Moreover, regardless of the Nebraska PSC's authority under state law to review U S WEST's proposed withdrawal of Centrex, it is clear that the Nebraska PSC had an independent obligation under *federal law* to ensure that the withdrawal was neither discriminatory nor in violation of the resale provisions of the 1996 Act.

the Nebraska PSC to consider the anticompetitive implications of U S WEST's proposed withdrawal of Centrex under federal law prior to that withdrawal becoming effective.

Accordingly, McLeodUSA renews its request that the Commission act expeditiously to preempt the Nebraska PSC's decision to let U S WEST's withdrawal of Centrex services take effect. To date, no regulatory or judicial authority has substantively examined whether this withdrawal would violate federal law. The Commission should therefore step in where others have failed to ensure that the pro-competitive provisions of the 1996 Act are adequately enforced, and pursuant to Section 253, preempt the Nebraska PSC's decision to allow U S WEST's withdrawal of Centrex to become effective.

Respectfully submitted,



David R. Conn
William A. Haas
Richard S. Lipman
McLeodUSA Telecommunications
Services, Inc.
6400 C Street, SW, P.O. Box 3177
Cedar Rapids, Iowa 52406-3177
(319) 298-7055 (Tel)
(319) 298-7901 (Fax)

Andrew D. Lipman
Richard M. Rindler
Swidler & Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

Counsel for
McLeodUSA Telecommunications Services, Inc.

Dated: August 24, 1998

ATTACHMENT A

OPINION OF THE SUPREME COURT OF NEBRASKA

Case Title

**In re Complaints of McLeod Telemanagement, Inc., et al.
Against U S West Communications, Inc.**

**McLeod Telemanagement, Inc., et al., Appellants,
v.
U S West Communications, Inc., Appellee.**

Case Caption

In re Complaints of McLeod Telemanagement et al.

Filed August 14, 1998. No. S-97-112

Appeal from the Public Service Commission. Reversed and remanded with direction to dismiss.

Steven G. Seglin, of Crosby, Guenzel, Davis, Kessner & Kuester; David R. Conn; and Karen L. Clauson for appellants McLeod Telemanagement and MCI Telecommunications.

Andrew S. Pollock, of Knudsen, Berkhelmer, Richardson, Endacott & Routh; Mary B. Tribby; and Peggy Graham for appellant AT&T Communications of the Midwest.

Richard L. Johnson for U S West.

RECEIVED AUG 14 1998

IN RE COMPLAINTS OF McLEOD TELEMANAGEMENT ET AL

NO. S-97-112 - filed August 14, 1998.

1. Public Service Commission: Appeal and Error. In an appeal from the Public Service Commission, an appellate court examines the record to determine whether the commission acted within the scope of its authority and whether the evidence establishes that the order in question is not unreasonable or arbitrary.

2. Courts: Jurisdiction: Appeal and Error. Before considering the merits of a case, it is the duty of the Nebraska Supreme Court to determine whether it has jurisdiction over the subject matter of the case, regardless of whether the parties have questioned the jurisdiction of the lower court or tribunal.

3. Judgments: Jurisdiction: Appeal and Error. A jurisdictional question which does not involve a factual dispute is determined by an appellate court as a matter of law. As a result, this court is required to reach a conclusion independent from the lower court's decision.

4. Constitutional Law: Statutes: Public Service Commission. The general powers granted by Neb. Const. art. IV, § 20, may be limited by specific legislation.

5. Jurisdiction: Appeal and Error. When an appeal is taken from a court which lacked jurisdiction, the appellate court acquires no jurisdiction.

6. Jurisdiction: Parties: Standing. Before a party is entitled to invoke a court's jurisdiction, that party must have standing to sue.

7. Standing: Words and Phrases. Standing is the legal or equitable right, title, or interest in the subject matter of the controversy which entitles a party to invoke the jurisdiction of the court. Because the requirement of standing is fundamental to a court's exercise of jurisdiction, a litigant or a court before which a case is pending can raise the question of standing at any time during the proceeding.

8. Actions: Parties: Standing. The purpose of a standing inquiry is to determine whether the party has a legally protectable interest or right in the controversy that would benefit by the relief to be granted.

WHITE, C.J., CAPORALE, WRIGHT, CONNOLLY, GERRARD, and MCCORMACK, JJ.

WHITE, C.J.

This case involves the combined appeal of McLeod Telemanagement, Inc. (McLeod), MCI Telecommunications Corporation (MCI), and AT&T Communications of the Midwest, Inc. (AT&T) (collectively appellants), from the opinion and findings of the Nebraska Public Service Commission (PSC) on appellants' three formal complaints alleging U S West Communications, Inc. (U S West), illegally grandfathered its Centrex Plus telecommunications service in contravention of both state law and the federal Telecommunications Act of 1996, 47 U.S.C.A. § 151 et seq. (West 1991 & Supp. 1998). We removed this case to our docket pursuant to our authority to regulate the caseloads of the Nebraska Court of Appeals and this court. See Neb. Rev. Stat. § 24-1106(3) (Reissue 1995).

U S West is authorized to provide local telephone service in the Nebraska market. In conducting business as a local exchange carrier, U S West has developed various telecommunications services designed to benefit the telecommunications needs of businesses. One such service is Centrex Plus. Centrex Plus is a central-office-based switching service designed to meet the needs of U S West's business customers utilizing 2 to 100-plus lines. The system operates within a U S West central office and offers calling features such as call hold, call transfer, and three-way calling.

On February 5, 1996, U S West filed a rate list with the PSC. Through filing the rate list, U S West announced its intention to partially withdraw Centrex Plus from the Nebraska market by grandfathering the service for existing customers. Pursuant to the PSC's telecommunications rules and regulations, U S West's rate list would become effective on February 16. The rate list also revealed that U S West would discontinue offering Centrex Plus to new telecommunications customers once the rate list became effective. In addition to the grandfathering announcement, U S West also announced its intention to introduce a successor service to the retail market within 6 to 9 months from removing Centrex Plus from the market. As of December, U S West had not introduced a service to replace Centrex Plus.

On February 8, 1996, the federal Telecommunications Act became effective. The act was passed to facilitate the entry of competing companies into local telephone-service markets across the country. See, *Iowa Utilities Bd. v. F.C.C.*, 120 F.3d 753 (8th Cir. 1997), cert. granted, *AT&T Corp. v. Iowa Utilities Board*, ___ U.S. ___, ___ S. Ct. ___, 138 L. Ed. 2d 867 (1998); *GTE South Inc. v. Morrison*, 957 F. Supp. 800 (1997). To facilitate such entry, the act requires each incumbent local exchange carrier (ILEC), such as U S West, to offer for resale at wholesale rates any telecommunications service which an ILEC sells at retail to subscribers who are not telecommunications carriers. See § 251. The act also prevents any unreasonable or discriminatory limitations on the resale of such services. *Id.*

On February 12, 1996, McLeod and MCI objected to U S West's withdrawal of Centrex Plus by filing virtually identical formal complaints with the PSC. On March 21, AT&T also objected to U S West's withdrawal of Centrex Plus by filing a complaint similar to those complaints filed by McLeod and MCI. The complaints set forth appellants' general allegation that U S West's grandfathering of Centrex Plus was discriminatory and contrary to federal and state law. The complaints also set forth appellants' specific allegations that U S West's act of withdrawing the availability of Centrex Plus to new customers violated § 251(b)(1), (c)(2), and (c)(4) of the act. The complaints further allege that the "primary effect" of U S West's withdrawal of Centrex Plus precludes McLeod, MCI, and "other prospective customers from offering local exchange service in Nebraska by reselling Centrex Plus service."

At the time that McLeod and MCI filed their complaints with the PSC, neither corporation had filed an application for authority to provide local exchange service in Nebraska. Even though AT&T had filed an application for authority to provide local exchange service in Nebraska, its application was still pending at the time it filed a formal complaint with the PSC. The record does not reveal whether AT&T has been authorized to provide local service in Nebraska.

On May 30, 1996, the PSC held a hearing on the issues presented by appellants' formal complaints. On November 25, the PSC, in a 4-to-1 decision, partially sustained and partially denied appellants' formal complaints. On December 13, appellants filed a joint motion for rehearing. On January 13, 1997, the PSC denied appellants' motion. Appellants timely appealed, and we removed this case to our docket.

In appealing the decision of the PSC, AT&T filed a separate brief from that of McLeod and MCI. The substance of the assertions set forth in AT&T's assignments of error is virtually identical to that of the errors assigned by McLeod and MCI. Therefore, we shall consider appellants' assignments of error collectively. Appellants assert, restated, that the PSC erred in (1) holding that U S West's partial withdrawal of Centrex Plus did not violate state law, (2) holding that U S West could partially withdraw Centrex Plus by filing a rate list with the PSC rather than filing a tariff change, (3) holding that U S West's partial withdrawal of Centrex Plus was not an unreasonable and discriminatory condition or limitation on the resale of a telecommunications service, in violation of § 251(b)(1) and (c)(4)(B) of the act, and (4) failing to make a determination whether the PSC's decision authorizing U S West to partially withdraw Centrex Plus prohibits McLeod, MCI, and AT&T from providing intrastate telecommunications service, in violation of § 253(a) of the act.

In an appeal from the PSC, an appellate court examines the record to determine whether the PSC acted within the scope of its authority and whether the evidence establishes that the order in question is not unreasonable or arbitrary. *In re Application of Jantzen*, 245 Neb. 81, 511 N.W.2d 504 (1994); *Fecht v. Quality Processing*, 244 Neb. 522, 508 N.W.2d 236 (1993).

Appellants' first assignment of error sets forth their assertion that U S West's partial withdrawal of Centrex Plus violates state law. Before considering the merits of appellants' arguments, it is the duty of this court to determine whether we have jurisdiction over the subject matter of this case, regardless of whether the parties have questioned the jurisdiction of the lower court or tribunal. *In re Interest of D.W.*, 249 Neb. 133, 542 N.W.2d 407 (1996). A jurisdictional question which does not involve a factual dispute is determined by an appellate court as a matter of law. *Bonge v. County of Madison*, 253 Neb. 903, 573 N.W.2d 448 (1998). As a result, this court is required to reach a conclusion independent from the lower court's decision. *Id.*

In making the argument that U S West has violated state law, appellants rely upon Neb. Rev. Stat. § 86-801 (Reissue 1994). Section 86-801 sets out a general legislative policy on the provision of telecommunications services in Nebraska. The policy specifically calls for (1) the preservation of affordable rates, (2) the maintenance and advancement of the efficiency and availability of telecommunications services, (3) the payment of reasonable charges for telecommunications services, and (4) the promotion of diversity in the supply of telecommunications services and products. Although it is questionable whether these provisions are actually enforceable, we must first resolve any jurisdictional questions. See *In re Interest of D.W.*, *supra*.

Neb. Const. art. IV, § 20, empowers the PSC to regulate common carriers. Article IV, § 20, provides: "The powers and duties of [the PSC] shall include the regulation of rates, service and general control of common carriers as the Legislature may provide by law. But, in the absence of specific legislation, the [PSC] shall exercise the powers and perform the duties enumerated in this provision."

The PSC, except as provided in § 86-801 through Neb. Rev. Stat. § 86-811 (Reissue 1994), has the power to regulate telecommunications companies pursuant to § 86-803(1). The general powers granted by article IV, § 20, however, may be limited by specific legislation. See *State ex. rel. Spire v. Northwestern Bell Tel. Co.*, 233 Neb. 262, 445 N.W.2d 264 (1989). Therefore, we must determine whether the PSC has jurisdiction to enforce § 86-801.

In § 86-811, the Legislature specifically established, in part:

If any telecommunications company violates any provisions of sections 75-109, 75-604, and 75-609 or 86-801 to 86-810, any interested person may petition the district court of the county in which such alleged violation has occurred. If it appears to the court, after a hearing, that a provision of such sections has been violated, the court may issue an

injunction or other proper process to restrain the telecommunications company and its directors, officers, employees, or agents from continuing such violation and may order additional relief.

Thus, through § 86-811, the Legislature has granted the district court for the county in which a violation of §§ 86-801 to 86-810 occurred the authority to grant relief for such a violation. Appellants filed their complaints alleging U S West violated § 86-801 with the PSC and not in a district court as authorized by § 86-811. The PSC was without jurisdiction to consider whether U S West's actions violated § 86-801.

When an appeal is taken from a court which lacked jurisdiction, the appellate court acquires no jurisdiction. *Becker v. Nebraska Acct. & Disclosure Comm.*, 249 Neb. 28, 541 N.W.2d 36 (1995); *Dittrich v. Nebraska Dept. of Corr. Servs.*, 248 Neb. 818, 539 N.W.2d 432 (1995). Consequently, this court is also without jurisdiction to consider the merits of appellants' state law claim based on § 86-801.

We now turn to appellants' remaining arguments that U S West violated state law and appellants' remaining assignments of error. Due to the fact that appellants filed their formal complaints with the PSC prior to being authorized to provide local exchange service in Nebraska, the court is presented with the issue of whether appellants have the requisite standing to raise the remaining issues presented by appellants' assignments of error.

Before a party is entitled to invoke a court's jurisdiction, that party must have standing to sue. *Ponderosa Ridge LLC v. Banner County*, 250 Neb. 844, 554 N.W.2d 151 (1996); *Metropolitan Utilities Dist. v. Twin Platte NRD*, 250 Neb. 442, 550 N.W.2d 907 (1996); *In re Interest of Archie C.*, 250 Neb. 123, 547 N.W.2d 913 (1996); *Marten v. Staab*, 249 Neb. 299, 543 N.W.2d 436 (1996); *City of Ralston v. Balka*, 247 Neb. 773, 530 N.W.2d 594 (1995). Standing is the legal or equitable right, title, or interest in the subject matter of the controversy which entitles a party to invoke the jurisdiction of the court. Because the requirement of standing is fundamental to a court's exercise of jurisdiction, a litigant or a court before which a case is pending can raise the question of standing at any time during the proceeding. *State on behalf of Hopkins v. Batt*, 259 Neb. 852, 573 N.W.2d 425 (1996). The purpose of a standing inquiry is to determine whether the party has a legally protectable interest or right in the controversy that would benefit by the relief to be granted. *Metropolitan Utilities Dist. v. Twin Platte NRD*, *supra*; *In re Interest of Archie C.*, *supra*; *Marten v. Staab*, *supra*; *City of Ralston v. Balka*, *supra*.

In Nebraska, an entity may not provide telecommunications services without the approval of the PSC. The PSC's regulatory power in the telecommunications area emanates from article IV, § 20, of the Nebraska Constitution. Article IV, § 20, provides that "[t]he powers and duties of [the PSC] shall include the regulation of rates, service and general control of common carriers as the Legislature may provide by law." The Legislature has empowered the PSC to regulate the entry of telecommunications carriers into the Nebraska marketplace through Neb. Rev. Stat § 75-604 (Reissue 1996) and § 86-805. The pertinent portion of § 75-604 provides:

(1) Except as provided in section 86-805, no person, firm, partnership, limited liability company, corporation, cooperative, or association shall offer any telecommunications service or shall construct new telecommunications facilities in or extend existing telecommunications facilities into the territory of another telecommunications company for the purpose of providing any telecommunications service without first making an application for and receiving from the [PSC] a certificate of convenience and necessity, after due notice and hearing under the rules and regulations of the [PSC].

The pertinent portion of § 86-805 provides:

(1) The commission may issue a certificate authorizing any telecommunications company which so applies to the commission to offer and provide inter-LATA [local access transport area] interexchange services, which application shall include such information as may be required by the commission under duly adopted and promulgated rules and regulations.

In order to provide telecommunications service in Nebraska, McLeod, MCI, and AT&T must be approved by the PSC.

As stated above, the purpose of a standing inquiry is to determine whether the party has a legally protectable interest or right in the controversy that would benefit by the relief to be granted. In this case, appellants do not have a legally protectable interest in the controversy that would benefit by the relief granted. Appellants request this court to reverse the PSC's opinion and findings and order U S West to (1) remove Centrex Plus from its grandfathered status and (2) offer Centrex Plus at retail so that appellants may resell the service under the terms of the act. However, appellants were not licensed to provide telecommunications services in the Nebraska market at the time appellants filed their complaints. Even if we were to grant the relief requested, appellants would not receive any recognizable benefit because they are not authorized to provide local telephone services in Nebraska. Appellants do not have the requisite standing to raise issues presented by the remaining assignments of error.

Consequently, the opinion and findings of the PSC are hereby reversed. Upon remand, the PSC is directed to dismiss appellants' complaints, as the PSC lacked jurisdiction to consider appellants' § 86-801 argument and appellants lacked standing to bring the remaining issues before the PSC.

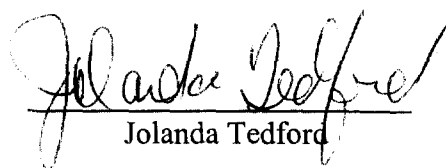
REVERSED AND REMANDED WITH
DIRECTION TO DISMISS.

STEPHAN, J., not participating.

CERTIFICATE OF SERVICE

I, Jolanda Tedford, hereby certify that a copy of the foregoing **Supplemental Filing of McLeodUSA Telecommunications Services, Inc. in Docket No. 98-84** was sent to each of the following parties by U.S. mail, postage prepaid and as otherwise specified below on this 24th day of August, 1998.

SEE ATTACHED SERVICE LIST


Jolanda Tedford

SERVICE LIST FOR DOCKET NO. 98-84

**** Hand Delivery**

Magalie Roman Salas**
(Original + 2 copies)
Secretary
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

ITS**
1231 20th Street, N.W.
Washington, DC 20554

Janice Myles**
Common Carrier Bureau
1919 M Street, N.W.
Room 544
Washington, DC 20554

Chairman William Kennard**
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554

Commissioner Susan Ness**
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554

Commissioner Harold Furchtgott-Roth**
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554

Commissioner Michael Powell**
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554

Commissioner Gloria Tristani**
Federal Communications Commission
1919 M Street N.W.
Washington DC 20554

Don Sternberg
Nebraska Attorney General
2115 State Capital
Lincoln NE 68505

Robert R. Logsdon, Executive Director
Nebraska Public Service Commission
300 The Atrium
1200 N Street
Lincoln NE 68509

Frank E. Landis
Vice-Chairman
Nebraska Public Service Commission
300 The Atrium
1200 N Street
Lincoln NE 68509

A. L. Bergman
US West Communications
1314 Douglas on the Mall
14th Floor
Omaha NE 68102

Honorable Lowell C. Johnson
Chairman
Nebraska Public Service Commission
300 The Atrium
1200 N Street
Lincoln NE 68509

Mark P. Trinchero
James Blitz
Keith L. Kutler
Davis Wright Tremaine LLP
1155 Connecticut Avenue, N.W., Suite 700
Washington, D.C. 20036

Robert J. Aamoth
Joan M. Griffin
Andrea D. Pruitt
Kelley Drye & Warren LLP
1200 19th Street, N.W., Fifth Floor
Washington, D.C. 20036

Kecia Boney
Lisa B. Smith
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, DC 20554

Emily M. Williams
Association for Local Telecommunications
Services
888 17th Street, N.W. Suite 900
Washington DC 20006

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W., Suite 701
Washington DC 20006

Robert B. McKenna
US West Communications, Inc.
1020 19th Street, N.W.
Suite 700
Washington DC 20036

Catherine R. Sloan
Richard L. Fruchterman III
Richard S. Whitt
David N. Porter
1120 Connecticut Avenue, N.W.
Suite 400
Washington DC 20036